

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-487404-D3

Issued to: JOHN FLETCHER BLAYLOCK

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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JOHN FLETCHER BLAYLOCK

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 22 June, 1954, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-487404-D3 issued to John Fletcher Blaylock upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as a room steward on board the American SS DEL NORTE under authority of the document above described, on or about 17 June, 1954, while said vessel was in the port of New Orleans, Louisiana, he wrongfully had a quantity of marijuana in his possession.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and the Investigating Officer introduced in evidence the testimony of three U. S. Customs employees.

In defense, Appellant offered in evidence his own sworn testimony. He flatly denied having any knowledge as to how the marijuana got in his clothing.

At the conclusion of the hearing, having heard the argument of the Investigating Officer and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-487404-D3 and all other licenses, certificates and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

APPEARANCE: Messrs. Roberts & McInnis (By Julian P. Freret) of
For Appellant.

Washington, D. C.,

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 17 June, 1954, Appellant was serving as a room steward on board the American SS DEL NORTE and acting under authority of his Merchant Mariner's Document No. Z-487404-D3 while the ship was at New Orleans, Louisiana.

On this date, a routine search of the ship was conducted by the U. S. Customs authorities and fragments of marijuana were found in five pockets of four pieces of clothing which belonged to Appellant. A book of cigarette papers was also found in one garment owned by Appellant. The record does not show the exact quantity of marijuana found in any garment; but what was found has been described as "particles" or "fragments" of "leaves, stems and extraneous matter" which contained marijuana.

OPINION

The brief of counsel is partially based on the assumption that Appellant's opportunities for preparation of his defense were abridged because, it is said, he was allowed but one day between service of the charge and the trial. This is not correct. The charge was dated and served on June 17, 1954; but because no Examiner was present in New Orleans on June 18, the hearing was adjourned to June 21, 1954.

In view of the action to be taken in this case, it is not necessary to discuss the other contentions advanced on this appeal beyond observing that, in these administrative proceedings (which are essentially addressed to safety of lives and property at sea) the Coast Guard is not bound by the rigid rules of criminal practice, and its Examiners are not required to have before them the standard of proof necessary to convict persons for the violation of law in a criminal court.

The Examiner was not favorably impressed by Appellant's testimony, and I am quite reluctant to disturb his order; but the only direct evidence presented consists of "fragments" or "particles" of marijuana gleaned from the pockets of Appellant's clothing. Appellant's unsatisfactory statement regarding the presence of cigarette papers may have been important; but the papers were not shown to be connected with the particles of marijuana, and I hesitate to ascribe a guilty significance without such a showing.

While the fragments or particles were later established to be marijuana by chemical analysis, there is no showing in the record that the quantity found was sufficient to present an immediate hazard. In my opinion, such evidence standing alone, and without other supporting facts and circumstances, is insufficient to sustain the charge in this case.

ORDER

The Order of the Examiner dated at New orleans, Louisiana, on 22 June, 1954, is
VACATED, SET ASIDE AND REVERSED.

A. C. Richmond
Vice Admiral, U. S. Coast Guard
Commandant

Dated at Washington, D. C., this 31st day of August, 1954.